



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

MARCUS JOSEPH DUCKWALL, §
Plaintiff, §
§
vs. § CIVIL ACTION NO. 3:05-3273-HFF-JRM
§
C. HAIST *et al.*, §
Defendants. §

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE

This is a civil rights action filed under 42 U.S.C. § 1983. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that this case be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on November 8, 2006. Plaintiff failed to file any objections to the Report.* In the absence of objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that this case be **DISMISSED** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

Signed this 7th day of December, 2006, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

*The Court notes that Plaintiff is likely unaware of the Report since, on August 29, 2006, Plaintiff's copy of the Report was returned to the Clerk of Court, marked "Released" and "RETURN TO SENDER[,] ATTEMPTED – NOT KNOWN[,] UNABLE TO FORWARD." In light of the record in this case, however, and Plaintiff's failure to keep the Court apprised of his current mailing address, the Court has no option but to dismiss the action.